

REMARKS

Claims 1-27 remain pending in the application.

In the only rejections set forth in the Office Action of January 21, 2003, Claims 1, 4, 6, 7, 9, 12-13, 18, 19, and 25-27 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the disclosure of FR2414485 (hereinafter “Baeck”). Applicant respectfully traverses the rejection as set forth below.

It is well established that in order for the prior art of record to be a novelty defeating reference under 35 U.S.C. §102(b), the reference must disclose each and every feature of the claimed invention. Here, such a standard has not been met.

Claim 1 of the instant application recites, in part, a method of treating animal manure solids, wherein the manure solids are present within a **dry animal litter composition**. In contrast, the disclosure of Baeck is focused solely on the treatment of **liquid manures** (See page 2, lines 3-7). Specifically, Baeck teaches adding a flocculating agent and coagulant to a liquid material, agitating the material to induce settling and then removing the solids. To that end, Baeck’s objective is to obtain a liquid phase, i.e., water, with a biological oxygen demand (BOD) less than 4,000 mg/L. Therefore, Claim 1 and those claims depending therefrom differ from Baeck at least by the fact that Baeck only discloses the treatment of **liquid manures** and fails to disclose a method for treating manure solids present in a **dry animal litter composition**. As such, Baeck fails to disclose each and every feature of the claimed invention and therefore this rejection should be withdrawn.

Similarly, and although not specifically addressed in the Office Action, Applicant submits the following arguments in traverse of any potential rejection of the instant claims under 35 U.S.C. §103 as allegedly being obvious in view of the teachings of Baeck.

It is well settled that in order to establish a *prima facie* case of obviousness, the art of record must teach, or at least suggest, the claimed invention as a whole. Moreover, there must be adequate motivation and a reasonable expectation of success to undertake the modifications proposed in the rejection. Once again, neither standard is satisfied by the teachings of Baeck.

As stated above, Baeck only discloses the treatment of liquid manures and further seeks to obtain a liquid with a biological oxygen demand (BOD) less than 4,000 mg/L. In contrast, Claim 1 of the instant application is directed to the treatment of animal manure solids, wherein the manure solids are present within a dry animal litter composition. Moreover, one of ordinary skill in the art will appreciate that the biological oxygen demand (BOD) as utilized in Baeck is a measurable property of a liquid phase, i.e., a liquid manure, but is not a measurable property of solids, i.e., manure solids present within a dry animal litter composition. Therefore, not only does the disclosure of Baeck fail to teach or even suggest the claimed invention as a whole, but rather it teaches away from a method for treatment of manure solids that are present within a **dry animal litter composition**. As such, it is respectfully submitted that the disclosure of Baeck does not obviate instant Claims 1-27.

PETITION FOR EXTENSION OF TIME

It is respectfully requested that an extension of time for five (5) months be granted in accordance with the provisions of 37 C.F.R. § 1.136, thereby extending the time to take this action from September 21, 2003 up to and including February 23, 2004. A Credit Card Payment Form PTO-2038 authorizing payment in the amount of **\$2760.00** (\$750.00 for the concurrently filed RCE and \$2010.00 for the five (5) month extension of time) is enclosed. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

CONCLUSION

In light of the arguments set forth above, the application is believed to be in condition for allowance. Accordingly, Applicant respectfully seeks notification of same.

Respectfully submitted,

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I hereby certify that this correspondence and any items indicated as attached or included are being deposited with the United States Postal Service as Express Mail, Label No. EL 992017826 US in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


MICHAEL LAIRD

2/23/04

Date